

Application No. 10/735,343
Amendment dated January 31, 2005
Reply to Restriction Requirement of October 13, 2004

REMARKS

Applicant cancelled claims 60-183 without prejudice or disclaimer of their subject matter and added new claims 184-248 to further define Applicant's invention. New claims 184-198, 203-231, and 236-248 read on elected species VIII.

Applicant respectfully traverses the restriction requirement to the extent that it fails to identify any linking claims. Currently, elected independent claim 184 is a linking claim to at least species VI, VII, and VIII. Applicant submits that upon allowance of linking claim 184, at least claims 199-202 (directed to species VI) must be rejoined and examined under 37 C.F.R. § 1.104 for patentability.

Elected independent claim 217 is a linking claim to at least species VI, VII, and VIII. Applicant submits that upon allowance of linking claim 217, at least claims 232-235 (directed to species VI) must be rejoined and examined under 37 C.F.R. § 1.104 for patentability.

Applicant respectfully requests the Examiner to acknowledge that independent claims 184 and 217 are linking claims and include form paragraph 8.12 in the next Office Action as is required by MPEP § 809.03. (See the "Examiner note" to form paragraph 8.12 which states that the paragraph "must be included in any restriction requirement with at least one linking claim present." (See, MPEP § 809.03, page 800-43, 1st col. (August 2001)). According to MPEP § 809, "should any linking claim be allowed, the restriction requirement must be withdrawn. Any claim(s) directed to the non-elected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability." (See, MPEP § 809, page 800-40, 2nd col., and MPEP §§ 809.03 and 809.04, page 800-43 (August 2001)).

Applicant is submitting herewith a Terminal Disclaimer of U.S. Application No. 10/735,343 over U.S. Patent No. 6,662,471 to obviate an obviousness-type double-patenting rejection.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any

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fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: January 31, 2005

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